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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,248	07/19/2001	Biswa R. Banerjee	11465/491	9312

7590

12/04/2006

Patent Administrator
Suite 1600
525 West Monroe Street
Chicago, IL 60661-3693

EXAMINER

BRIER, JEFFERY A

ART UNIT PAPER NUMBER

2628

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

09/909,248

Examiner

Jeffery A. Brier

Applicant(s)

BANERJEE ET AL.

Art Unit

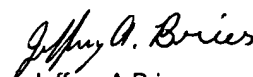
2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

See Continuation Sheet


Jeffery A Brier
Primary Examiner
Art Unit: 2628

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Other reasons for holding abandonment:

The Appeal is dismissed and this application is abandoned because the Supplemental Appeal Brief filed on 12/22/2005 does not overcome all the reasons for noncompliance of which the appellant was notified in the Notification of Non-Compliant Appeal Brief mailed on 9/23/2005. See MPEP 1205.03 at page 1200-16 second column first paragraph which states "The appeal will be dismissed if the appellant does not timely file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance of which the appellant was notified."

The Supplemental Appeal Brief filed on 12/22/2005 is defective because items 3, 4, and 10 of the 9/23/2005 Notification of Non-Compliant Appeal Brief were not overcome.

Re item 4 of the 9/23/2005 Notification of Non-Compliant Appeal Brief concerning the summary of claimed invention: See MPEP 1205.02 at page 14 first column fourth paragraph which states:

"A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters. < While reference to page and line number of the specification **>requires< somewhat more detail than simply summarizing the invention, it is considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application. >For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of 37 CFR 41.37(c)(1)(vii), every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters. If appellant does not provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), the Office will notify appellant of the defect in the brief and give appellant a time period within which to file an amended brief. See 37 CFR 41.37(d).<".

Two independent claims are appealed and only briefly discussed in this section of the appeal brief.

Additionally means plus function language is present in the claims and this language is not addressed in the Supplemental Appeal Brief's Summary of the Invention as required by 37 CFR 41.37(c)(1)(v).

Re item 3 of the 9/23/2005 Notification of Non-Compliant Appeal Brief concerning status of amendments: See MPEP 1205.02 at page 14 first column second paragraph which states:

"A statement of the status of any amendment filed subsequent to final rejection, i.e., whether or not the amendment has been acted upon by the examiner, and if so, whether it was entered, >or< denied entry". This statement should be of the status of the amendment as understood by the appellant. >Appellants are encouraged to check the Office's Patent Application Information Retrieval (PAIR) system for the status of any amendment or affidavit or other evidence filed after a final rejection or the filing of a notice of appeal."

Appellants reference to MPEP 1207 is not seen as complying with the requirements of MPEP 1205.02.

The Supplemental Appeal Brief filed on 12/22/2005 is additionally defective because:

Re Grouping of claims: A separate section for grouping of claims is no longer part of an appeal brief. See MPEP 1205.02.

Re evidence appendix: See MPEP 1205.02 at page 15 second column which states:

"The appendix should start on a new page. If there is no evidence being relied upon by appellant in the appeal, then an evidence appendix should be included with the indication "none.". This appendix is not present in the appeal brief.

Re related proceeding appendix: See MPEP 1205.02 at page 15 second column which states:

"The appendix should start on a new page. If there are no such copies of decisions being submitted in the appeal, then a related proceedings appendix should be included with the indication "none.". This appendix is not present in the appeal brief